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Reply To
Attn. Of: HW-106

MAY 01 1992

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BURLINGTON ENVIRONMENTAL, INC.
CORPORATE OFFICE

FILE COPY

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

David A. Aggerholm, Manager
Environmental Management
Port of Seattle
P.O. Box 1209
Seattle, Washington 98111

Re: Burlington Environmental Inc., Pier 91 Facility,
EPA Identification Number WAD 00081 2917

Dear Mr. Aggerholm:

This letter is to inform you that the U.S. Environmental Protection Agency (EPA) has made a determination which impacts the scope and schedule of the proposed Pier 91 Resource Conservation and Recovery Act (RCRA) permit for Burlington Environmental Inc. (Burlington) and the Port of Seattle (Port). The definition of "facility" for the proposed permit will include the Port of Seattle property leased by Burlington for the dangerous waste treatment and storage area as well as all contiguous property owned by the Port of Seattle. This definition of facility, to include "all contiguous property under the control of the owner/operator," is consistent with definitions in 40 CFR 260.10 and in the preamble to the proposed rule for Corrective Action for Solid Waste Management Units (55 FR 30798, 7/27/90). This definition was upheld in a U.S. District Court of Appeals decision (*United Technologies Corporation vs. U.S. EPA*, 1987) and in a number of administrative permit appeals (see enclosed decisions to RCRA Appeals 90-9 and 90-9a).

EPA recognizes that the proposed permit definition will greatly expand the facility area in relation to the portion leased by Burlington (which is how the facility is defined in the existing Consent Agreement with Burlington). To the best of our knowledge, this "facility" definition will encompass approximately 124 acres and include Terminals 90 and 91. In light of this fact, and after considering the administrative options, EPA has decided to withhold the federal portion of the proposed permit until EPA has completed a RCRA Facility Assessment (RFA) for the entire facility. This approach allows EPA to obtain a more complete understanding of potential

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contamination issues at the facility and provides more opportunity for the Port of Seattle to provide input to the process prior to public notice of the corrective action permit. This decision will not necessarily affect the permit schedule for the Washington Department of Ecology's portion of the permit.

To complete the RFA, EPA must assess any past releases of hazardous waste or hazardous constituents from any active or closed solid or hazardous waste management unit(s) on the facility property. While EPA has obtained this information for the portion of the property leased by Burlington, EPA does not have similar information for the rest of the Port of Seattle property. In order to obtain this information, the Port of Seattle as property owner, is hereby requested in accordance with Section 3007 of RCRA to submit the following information on the Pier 91 facility:

- 1) For all solid and hazardous waste management units on the property (including landfills, storage facilities, waste accumulation areas, waste piles, sumps, surface impoundments, wastewater treatment units, injection wells, transfer facilities, loading and unloading areas, resource recovery facilities, and any other waste handling operation), provide a brief assessment of the potential for a spill or release from the unit, and identify all known past and present releases and spills of waste material. Include both hazardous and solid wastes. Give the approximate dates and locations of each spill or release, and any cleanup operations which have occurred relative to these incidents. This should include, but not be limited to, all information and studies regarding the leaking Pacific Northern Oil Company pipelines and the discovery of product in groundwater wells west of the small tank storage yard.
- 2) List the approximate dates and locations of product spill leaks, releases, and drippings (other than into a product tank) which have occurred or are occurring at the facility, and any cleanup operations which have occurred relative to these incidents.
- 3) Identify all areas on the facility property where any products or wastes have been buried, impounded, spilled, or leaked.
- 4) For all items identified above, describe the composition of the material, the process or activity from which it resulted or which it was used, and any other pertinent information such as a physical description of the unit.

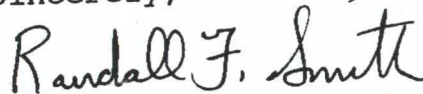
All facility records should be reviewed in obtaining the requested information, including the personal recollection of

longtime employees and past owners and operators. A facility owner who fails to provide information requested under Section 3007 violates the law and may be subject to enforcement action, including administrative penalties, under Section 3008 of RCRA.

This information should be certified in accordance with 40 CFR 270.11, and sent to Michael F. Gearheard, Chief, Waste Management Branch, HW-102, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington, 98101, within forty five (45) calendar days of receipt of this letter. A copy should also be sent to Cindy Gilder, Supervisor, Hazardous Waste Permits, Washington Department of Ecology, Mail Stop PV-11, Olympia, Washington, 98504-8711.

If you have any questions regarding this matter, please contact David Croxton of the EPA at (206) 553-8582.

Sincerely,



Randall F. Smith, Chief
Waste Management Division

Enclosure

cc: John Stiller, Burlington
Cindy Gilder, Ecology
Galen Tritt, Ecology-NWRO